

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
ROANOKE DIVISION

WALTER DAY

Plaintiff,

v.

Case No. 7:06-CV-00616

EX-CELL-O MACHINE TOOLS INC.;
GREENLEE TEXTRON, INC.; TEXTRON,
INC.; EX-CELL-O CORPORATION,
INDIVIDUALLY AND BY AND
THROUGH ITS SUCCESSOR, TEXTRON,
INC.; GREENLEE BROS. & CO.,
INDIVIDUALLY AND BY AND
THROUGH ITS SUCCESSOR, TEXTRON,
INC.; MAXCOR, INC.; and
NORTH AMERICAN SALES AND
SERVICE, INC.

Defendants.

**PLAINTIFF'S STIPULATION OF DISMISSAL
OF EX-CELL-O MACHINE TOOLS, INC., MAXCOR, INC. and
NORTH AMERICAN SALES AND SERVICE, INC.**

Pursuant to Rule 41(a)(1)(ii) of the Federal Rules of Civil Procedure, the plaintiff, by counsel, files this agreed Stipulation of Dismissal, without prejudice, as to defendants Ex-Cell-O Machine Tools, Inc., Maxcor, Inc. and North American Sales and Service, Inc. only as follows:

1. Plaintiff Walter Day has determined that defendants Ex-Cell-O Machine Tools, Inc., Maxcor, Inc. and North American Sales and Service, Inc. should be dismissed from this action by stipulation, without prejudice.
2. All parties to this action have no objection to this notice and stipulate, by their signatures below, that defendants Ex-Cell-O Machine Tools, Inc., Maxcor, Inc. and North American Sales and Service, Inc. should be dismissed without prejudice, with each party to bear his or its own costs and attorneys fees.

3. All parties to this action stipulate, by their signatures below, that no sanctions shall be sought against any of the parties or their attorneys as a result of this dismissal.
4. This Stipulation of Dismissal shall apply to defendants Ex-Cell-O Machine Tools, Inc., Maxcor, Inc. and North American Sales and Service, Inc. only, and shall not in any way affect the claims pending against the other defendants herein.
5. By this Stipulation, Greenlee Textron, Inc. is not in any way waiving any claim for contribution and/or indemnity it may have against any other person or entity.

WHEREFORE, plaintiff Walter Day, respectfully requests that this Court dismiss, without prejudice, defendants Ex-Cell-O Machine Tools, Inc., Maxcor, Inc. and North American Sales and Service, Inc. from this action.

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